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September 7, 2007

Ms. Mary P. Levine, Acting General Counsel/Director of Legal Affairs
Michigan State Housing Development Authority
P O Box 30044
Lansing MI 48909

RE: 2008-2009 Draft Qualified Allocation Plan

Dear Ms. Levine:

I have been involved in representing Developers and Owners of Affordable Housing Projects in excess of twenty years. These developments include HUD, MSHDA and USDA-RD projects. My work with Developers and Owners also includes the syndication of low income housing tax credits ("LIHTC") with numerous investors on a national basis. I am also a Developer, primarily focusing on the acquisition rehab of USDA-RD projects. Over the past eight years, along with my partner Jeffrey Gates, we have acquired over thirty (30) RD projects and have **successfully rehabbed twenty (20) of these projects**. This preservation of affordable housing for families and seniors in Michigan communities has made a tremendous positive impact in those communities. I have attached a list of the projects and communities where they are located.

Upon reviewing the 2008-2009 draft of the Qualified Allocation Plan ("QAP"), I have several issues with it. Frankly, I am not sure where to begin as the entire draft of the QAP deserves comment. Several of my developer clients have also voiced concerns. In fact, many of them have and will be looking for affordable housing development opportunities outside of Michigan. Specifically, they are working on developments in Pennsylvania, Texas, North Carolina and Wyoming; with plans to continue looking out of the State based on a large part, this draft QAP.

Specifically, some of my issues concern the following:

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- The allocation of 50% of the housing credit to the City of Detroit and reserving 25% for selected communities.

This is patently unfair to the residents of the rest of the State of Michigan. The backlash of this could be tsunami like. You are pitting Detroit against the rest of the State. Proposals from all areas should be treated on an equal basis without the partiality this draft creates.

- That every tax credit application include letters from three equity investors.

This is totally unrealistic in the real world. It is difficult now to negotiate one solid proposal let alone three. Further, most investors will balk at spending time on a proposal when they know we are trying to gather proposals simply to submit with a tax credit application. Investors spend a lot of time and effort developing their proformas. It is not something they simply crank out on a form. Also, Investors are looking at Michigan projects very warily. The last two deals that I have closed for clients in Detroit, it wasn't trying to get the best deal from several syndicators, it came down to one that would even look at the deal. We should be working to create incentives for these investors not drive them away.

- Requiring Federal Labor requirements and prevailing wages on all LIHTC projects.

When we go into a community we always try to use local subs. In the smaller communities we work in, e.g. Greenville, Stanton, Baldwin (see attached list of our projects), we do provide jobs for the local workforce. Mandates of prevailing wage and health insurance will crush the ability to feasibly do the sort of rehab that needs to be done. These older projects require significant rehab, generally over \$20,000 per unit. Additional project and administrative costs could result at best, a band-aid approach to rehab and at worst, not doing it due to financial infeasibility.

- The draft fails to incorporate a realistic preservation set-aside.

Neglecting the preservation of existing housing will result in these projects failing at a greater rate. The State of Michigan office of USDA-RD has taken over twenty-five (25) projects back to its inventory in 2006-2007. We have established a great program

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for the acquisition/rehab of USDA-RD projects. Today, over fifty (50%) percent of all tax credit units placed in service annually are in acquisition and rehabilitation projects. Incentives for these projects should be expanded, and the current preservation holdback should be increased to forty (40%) percent of the MSHDA's annual credit ceiling. The USDA-RD, MSHDA and local community partnership have been successful. This QAP will impair these types of partnerships to work to preserve the existing stock of affordable housing. The officials at USDA in the National, State and local offices have to be somewhat befuddled at the lack of cooperative effort that is provided for in this draft QAP.

There are so many other points that I could make, but I conclude with, why is the draft QAP such a radical departure from an existing successful program. Are tweaks needed from time to time, yes. But this QAP will be a disaster for the State and its affordable housing developers and investors alike. It is nonsensical to materially alter a program to successfully preserve the existing stock of affordable housing and when there is still an overwhelming demand for this housing.

Thank you for your time, it is appreciated.

Very truly yours,

MALLORY, CUNNINGHAM, LAPKA & SCOTT, PLLC



Thomas L. Lapka

cc: Honorable Jennifer M. Granholm
Gene DeRossett, USDA State Director
Bernie Gliberman, Chairman, MSHDA Board
Congressman Michael Rogers
State Representative Joan Bauer
Mayor Virg Bernero, City of Lansing

attachments: Project Listings
MHC White Paper Summary

PROJECT LISTINGS

Autumn Grove (Newaygo)
Bellevue Place (Bellevue)
Blanchard Apartments (Blanchard)
Bristle Arms (White Pigeon)
Carson Place (Carson City)
Center Park (Otisville)
Clarendon Glen (Clare)
Crossings (Addison)
Fife Lake (Fife Lake)
Gaslight Square (Gaylord)
Gateway Manor (Linden)
Green Meadows (Springport)
Harbor Villas (Port Austin)
Hidden Pines (Greenville)
Kalamink Creek (Webberville)
Kingsley Arms (Kingsley)
Main Street (Berrien Springs)
Mainville Apartments (Stanton)
Oak Park I (Traverse City)
Oak Terrace (Traverse City)
Oakwood Manor (Baldwin)
Old Mill Race (Coldwater)
Pine Manor (Greenville)
Pine Valley Place (Constantine)
Riverview (Bellevue)
Sandy Pines (Kalkaska)
Sunshine Canyon (Stanton)
Union Square (Ithaca)
Vineyard Villas (Paw Paw)
Waldron Manor (Waldron)
White Pine Manor (Barryton)



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White Paper Summary¹

Michigan's Qualified Allocation Plan [QAP] of the Federal Low Income Housing Tax Credit Program [LIHTC]

August 1, 2007

"The LIHTC is the single most important tool we have as an industry to meet an ever growing demand for affordable housing."

I. The Programs Create Jobs!

- If properly utilized and timely processed, this resource will create **2,000 high-paying construction jobs** and almost **\$800 million in annual economic activity in Michigan**.
- The Joint Center for Housing Studies of Harvard University has estimated that the production of LIHTC units accounts for nearly 26 percent of all new housing units in the Midwest.
- The new QAP will have a profound impact - positive or negative - on the Michigan economy in the next 12 to 36 months.

II. What the Program Needs.

1. Consistency: Some changes to the QAP are necessary but it should not be substantially re-written.

2. Flexibility: The reliance on market forces, points and other incentives must be maintained in new QAP.

3. Deep Targeting: Priority can be given to projects that serve the lowest income households for the longest period of time. Any new QAP must rely on points and other incentives to encourage private sector creativity to deeply target LIHTC developments for those in need. But deep targeting must be balanced with the need to spur greater economic activity than in previous periods.

4. Fairness: We believe that fairness and impartiality must be maintained in any new QAP.

¹ The Michigan Housing Council is one of the oldest statewide associations of affordable housing professionals in the United States and represents owners, developers, managers, general contractors and subcontractors, architects, engineers, attorneys, financial groups, insurers, accountants, market analysts, tax credit syndicators, and other consultants, non-profits and businesses involved with Michigan's affordable housing industry.

5. **Adequate Staffing:** Processing 200 to 250 tax credit applications annually -- in addition to the other tasks -- requires a dedicated and competent staff. Adequate staffing levels for the LIHTC program must be maintained.

III. What the Housing Industry Recommends

1. **Two Annual Funding Rounds:** It is critical that there be two tax credit funding rounds in 2007 and a minimum of two funding rounds during any year governed by the new QAP.

- A recent editorial in the *Lansing State Journal* said it best.² "Michigan is in no position to let jobs slip away." We agree.

2. **Increase Acquisition and Rehabilitation Incentives:** Today, over 50 percent of all tax credit units placed in service annually are in acquisition and rehabilitation projects. Incentives for these projects should be expanded, and the current preservation holdback must be increased to 40 percent of the MSHDA's annual credit ceiling.

3. **Create a Low Income Housing Tax Division within MSHDA:** MSHDA must adequately staff and administer the LIHTC program and create a new division on a par with four divisions dedicated to economic development.

4. **Maintain Current Special Needs Set-Aside:** Prior to proposing any increase in the special needs holdback, tangible, long term financial commitments must be identified and MSHDA must undertake an independent third party review to evaluate these units. It must also determine what lessons can be learned from housing units that have already been placed in service.

5. **Maintain Geographic Caps:** The current policy that no more than 45% of projects should be located within a single city, village, or township must be maintained in the next QAP.

6. **Processing Time:** The new QAP must commit to processing applications in no more than 60 days.

7. **Environmental and Marketing Pre-Reviews:** The current process must be changed to provide certainty. You can now go through the pre-review process only to be rejected in the tax credit round.

8. **Cure Period for Minor Errors:** The new QAP must provide an opportunity for project sponsors to cure minor and technical errors.

9. **Re-evaluate Rent Matrix:** Deep rent skewing can be effectively achieved using simpler and more straightforward methods.

IV. What MSHDA Should Do

MSHDA **must immediately** schedule a fall allocation round under the existing QAP, to be held not later than October 15th, 2007, or **additional key resources, such as the Affordable Housing Program Fund from the Federal Home Loan Bank of Indianapolis and other Federal Home Loan Banks will be lost for use in Michigan.**

² Editorial, *The Lansing State Journal*, July 12, 2007.

Furthermore, we strongly recommend that prior to the initiation of any public comment period, MSHDA hold a series of public dialogues so that we can hear from you and understand the reasons and the policy assumptions for the changes that you will be suggesting. .